

**Introduced by Senator Campbell**

February 17, 1995

---

An act to amend Sections 4055, 4320, and 4330 of the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 509, as introduced, T. Campbell. Child and spousal support.

Existing law sets forth the statewide uniform guideline for determining child support orders, under which the court is required to determine the approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent.

This bill would require this amount of time to be calculated according to the number of hours that each parent has primary physical responsibility for the children on each day.

Under existing law, in a judgment of dissolution of marriage or legal separation of the parties, the court is authorized to order a party to pay spousal support, as the court determines is just and reasonable, based on the standard of living established during the marriage and taking into consideration specified circumstances.

This bill would prohibit the court from using any formula or presumption based on the length of the marriage in ordering spousal support, and would require the court to consider additional specified circumstances in ordering spousal support.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 4055 of the Family Code is amended to read:

4055. (a) The statewide uniform guideline for determining child support orders is as follows:  $CS = K [HN - (H\%) (TN)]$ .

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. *H% shall be calculated according to the number of hours that each parent has primary physical responsibility for the children on each day.* In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month	K
\$0–800	$0.20 + TN/16,000$
\$801–6,666	0.25
\$6,667–10,000	$0.10 + 1000/TN$
Over \$10,000	$0.12 + 800/TN$

1 For example, if H% equals 20 percent and the total  
 2 monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times 0.25$ , or 0.30. If H% equals 80 percent and  
 3 the total monthly net disposable income of the parents is  
 4 \$1,000,  $K = (2 - 0.80) \times 0.25$ , or 0.30.

5 (4) For more than one child, multiply CS by:

6		
7		
8	2 children	1.6
9	3 children	2
10	4 children	2.3
11	5 children	2.5
12	6 children	2.625
13	7 children	2.75
14	8 children	2.813
15	9 children	2.844
16	10 children	2.86

17  
 18 (5) If the amount calculated under the formula results  
 19 in a positive number, the higher earner shall pay that  
 20 amount to the lower earner. If the amount calculated  
 21 under the formula results in a negative number, the lower  
 22 earner shall pay the absolute value of that amount to the  
 23 higher earner.

24 (6) In any default proceeding where proof is by  
 25 affidavit pursuant to Section 2336, or in any proceeding  
 26 for child support in which a party fails to appear after  
 27 being duly noticed, H% shall be set at zero in the formula  
 28 if the noncustodial parent is the higher earner or at 100  
 29 if the custodial parent is the higher earner, where there  
 30 is no evidence presented demonstrating the percentage  
 31 of time that the noncustodial parent has primary physical  
 32 responsibility for the children.

33 (7) Unless the court orders otherwise, the order for  
 34 child support shall allocate the support amount so that the  
 35 amount of support for the youngest child is the amount  
 36 of support for one child, and the amount for the next  
 37 youngest child is the difference between that amount and  
 38 the amount for two children, with similar allocations for  
 39 additional children. However, this paragraph does not  
 40 apply to cases where there are different time-sharing

1 arrangements for different children or where the court  
2 determines that the allocation would be inappropriate in  
3 the particular case.

4 SEC. 2. Section 4320 of the Family Code is amended  
5 to read:

6 4320. In ordering spousal support under this part, the  
7 court shall consider all of the following circumstances:

8 (a) The extent to which the earning capacity of each  
9 party is sufficient to maintain the standard of living  
10 established during the marriage, taking into account all  
11 of the following:

12 (1) The marketable skills of the supported party; the  
13 job market for those skills; the time and expenses  
14 required for the supported party to acquire the  
15 appropriate education or training to develop those skills;  
16 and the possible need for retraining or education to  
17 acquire other, more marketable skills or employment.

18 (2) The extent to which the supported party's present  
19 or future earning capacity is impaired by periods of  
20 unemployment that were incurred during the marriage  
21 to permit the supported party to devote time to domestic  
22 duties.

23 (b) The extent to which the supported party  
24 contributed to the attainment of an education, training,  
25 a career position, or a license by the supporting party.

26 (c) The ability to pay of the supporting party, taking  
27 into account the supporting party's earning capacity,  
28 earned and unearned income, assets, and standard of  
29 living.

30 (d) The needs of each party based on the standard of  
31 living established during the marriage.

32 (e) The obligations and assets, including the separate  
33 property, of each party.

34 (f) The duration of the marriage.

35 (g) The ability of the supported party to engage in  
36 gainful employment without unduly interfering with the  
37 interests of dependent children in the custody of the  
38 party.

39 (h) The age and health of the parties.

1 (i) The immediate and specific tax consequences to  
2 each party.

3 (j) *The balance of the hardships to each party.*

4 (k) *The goal that the supported party shall eventually*  
5 *be self-supporting.*

6 (l) *The practicalities of whether the supported party*  
7 *is actually receiving support from a person from whom he*  
8 *or she has a claim for continued support.*

9 (m) Any other factors the court determines are just  
10 and equitable.

11 SEC. 3. Section 4330 of the Family Code is amended  
12 to read:

13 4330. In a judgment of dissolution of marriage or legal  
14 separation of the parties, the court may order a party to  
15 pay for the support of the other party an amount, for a  
16 period of time, that the court determines is just and  
17 reasonable, based on the standard of living established  
18 during the marriage, taking into consideration the  
19 circumstances as provided in Chapter 2 (commencing  
20 with Section 4320). *The court shall not use any formula or*  
21 *presumption based on the length of the marriage in*  
22 *ordering spousal support.*

